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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,167	01/20/2004	Ronald D. Blum	10551/535	6633
23838	7590	10/13/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			MULLEN, THOMAS J	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,167

Applicant(s)

BLUM ET AL.

Examiner

Thomas J. Mullen, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/6/04, etc. - 8 pages</u> | 6) <input type="checkbox"/> Other: ____. |

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1. The patent number associated with related applications 10/682,435, 10/438,923 and 10/285,639 should be inserted on page 1 of the specification in the appropriate place, when known.

2. The disclosure is objected to because of the following informalities: paragraph 0023, next-to-last line, "controller 113" should be --controller 103--.

Appropriate correction is required.

3. The drawings are objected to because Figs. 2 and 10 are too dark to see and/or identify the particular features of the invention (including some of the associated reference numerals) illustrated therein.

The drawings are objected to because the blank boxes (or other blank enclosed shapes) in Fig. 1 which are large enough to be provided with "descriptive legends" in accordance with 37 CFR 1.84(o) should be provided with one--i.e., at least boxes (or enclosed shapes) 101,103,104, 105,108,109,110,125 in Fig. 1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 23 and 32 are objected to under 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23, "the substantially vertical or inclined display device" lacks antecedent basis (note the dependency of the claim).

In claim 32, line 1, it appears that "is" (before "comprises") should be deleted.

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claim 13 is vaguely worded, i.e. it is unclear what is meant by a "mixture" of "comparatively fine resolution" and "comparatively coarse resolution" per se (where "resolution" refers to a characteristic of an object, e.g. the resolution of an image, and not to the object itself, while a "mixture" generally refers to objects or things that are being mixed together); and, it is unclear what is meant by plural sensing devices being "arranged to form (such) a mixture", i.e. it is unclear whether each sensing device individually has its own "mixture", or the sensing devices as a whole form a "mixture".

Likewise, in claim 15 it is unclear what is meant by "the sensing devices are arranged with a comparatively fine resolution" (where "resolution" refers to a characteristic of an object, e.g. the resolution of an image, and not to the object itself); put another way, it is unclear whether each sensing device individually has its own "resolution", or the sensing devices as a whole have a "resolution".

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 4-5, 11-12, 21-22, 25-28, 31-33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hector et al (US 4720789, cited by applicant).

Note in Hector et al, floor covering 12; electronic display device 14 associated with the floor covering; controller 16,22; and plural sensing devices 28-44 ("weight sensitive pads"--col. 2, lines 23-24) coupled to the controller. The electronic display device 14 displays "electronically modifiable arbitrary content", as generally described at col. 3, lines 9-10 and col. 3, line 28 to col. 4, line 8 (note e.g. "food" 100, "bug" 102, and "feet" 116 and 124, shown on the display in Fig. 1). Each sensing device 28-44 is "associated with a specific location on the display device (14)", i.e. note that the nine pads 28-44 (each of which has a membrane switch 66--col. 2, lines 65-68 and Fig. 2) respectively correspond to the nine distinct "squares" 94 of the display 14. Thus, each sensing device 28-44 "generate(s) a signal to the controller (16,22) to cause a content of a display of the display device to be modified or newly generated at the specific location (associated with that sensing device)"; see e.g. col. 3, lines 7-10 and 42-55.

Further regarding claim 25, at least the "foot" images on display 14 (i.e., images 116 and 124) are responsive to the sensing devices 28-44 (see again col. 3, lines 7-10 and 42-55), and thus "track the movement of an object", i.e. the movement of the operator's feet.

Further regarding claim 27, Hector et al further discloses "signaling device(s)" such as light segments 48-56 (see Figs. 1-2 and col. 2, lines 32-51); in particular, Hector et al teaches that "the light segments surrounding a pad on which an operator is standing are lighted" (col. 2, lines 41-44). Thus, the signaling devices 48-56 "emit a signal corresponding to a display content of the electronic display device"--the "correspond(ence)" being that the "emit(ted) signal" occurs at the same time as a "modified or newly generated" display content when an operator's foot is sensed on a sensing pad 28-44.

Regarding claims 4-5, as noted above sensing devices 28-44 are "weight sensitive pads" each having a "membrane switch" associated therewith, and thus generate a signal responsive to a change in "pressure".

Regarding claims 11-12, as shown in Fig. 1 the sensing devices 28-44 are "arranged in an array comprising rows and columns".

Regarding claims 21-22, as shown in Fig. 1 the electronic display device 14 is "substantially vertical". In addition, the light segments 48-56 (discussed above with respect to

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claim 27) may be considered a separate "electronic display device" associated with floor covering 12. The display on display device 14 can include "alphanumeric data" and/or "graphic images" (note symbol 116 in Fig. 1).

Regarding claim 26, as discussed above with respect to claims 1, 11-12 and 21-22, each sensing device 28-44 is "associated with a specific location on the display device (14)", and generates a "respective signal" to the controller 16,22 to cause alphanumeric data and/or graphic images to be "modified or newly generated at a respective specific location".

Regarding claim 28, as noted above the "signaling device(s)" are light segments 48-56 which emit light signals.

Regarding claims 31-32, the "signaling device(s)" may be characterized as either "free-standing" (i.e., each light element or segment 48-56 remains in a single position within the context of framework 12, when framework 12 in normal use is placed in its operative position on the floor), or requiring a "fastening device" (e.g. slot member 58 in Fig. 2) so as to be fastened to a "support" (base member 62 in Fig. 2).

Regarding claim 33, as shown in Fig. 3 the "signaling device(s)" 48-56 are coupled by a "wired connection" to the rest of the electronic components, including controller 16,22 (via lines 72,74,76, see col. 2, lines 60-63).

Regarding claim 35, detection by one or more "weight sensitive pads" 28-44 of the foot of an operator inherently involves "detecti(ng)...a proximity of a person".

9. Claims 27, 29, 31, 33 and 35 are rejected under 35 U.S.C. 102(b)* as being anticipated by Ahdoot (US 5913727, cited by applicant).

*(NOTE: the effective date of at least one of the rejected claims appears to be no earlier than the filing date of the present application, since the provisional application 60/441,408 filed 1/22/03 does not include at least some of the subject matter claimed herein.)

Note in Ahdoot (Figs. 1-2), floor covering 70; electronic display device 20 associated with the floor covering; controller 50,50A; and "signaling device" 55,55B. The electronic display device 20 displays "electronically modifiable arbitrary content" in the form of a "computer generated three dimensional moving image 21" (col. 4, lines 42-43) and a "score 80" (col. 8, lines 1-2); see col. 7, lines 45-57 regarding the moving image 21. The electronic display

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device 20 is "associated with" the floor covering 70 by the use of pressure sensing means 72 positioned within the floor covering 70, to be actuated when a "player" moves over the floor covering, thereby providing signals to the controller 50,50A; see col. 6, lines 40-47 and col. 7, lines 35-44. Signaling device 55,55B "emit(s) a signal corresponding to a display content of the electronic display device (20)", see col. 8, lines 6-12.

Regarding claim 29, signaling device 55,55B includes an "audio output means" 55B which generates "sounds".

Regarding claim 31, as shown in Fig. 1 the signaling device 55,55B is "free-standing".

Regarding claim 33, as shown in Fig. 2 the signaling device 55,55B is coupled by a "wired connection" to controller 50A.

Regarding claim 35, detection by one or more "pressure sensing means" 72 of the foot of a "player" inherently involves "detecti(ng)...a proximity of a person".

10. Claims 36-41 are rejected under 35 U.S.C. 102(e)* as being anticipated by Rebh (US 2003/66073).

*(NOTE: the effective date of at least one of the rejected claims appears to be no earlier than the filing date of the present application, since the neither the provisional application 60/441,408 filed 1/22/03, nor the prior related applications upon which applicant claims priority, individually or collectively include all of the subject matter set forth in the rejected claims. Related application 10/074,026 is also noted, but has a filing date later than the effective date of Rebh--9/28/01--while the provisional application 60/268,409 associated with the '026 application does not include at least some of the subject matter set forth in the '026 application which might be relevant to the issue of establishing an earlier effective date for applicant.)

Rebh discloses a method for using floor display system in a "commercial establishment" (e.g. "grocery store", see paragraphs 0003 and 0017), note floor display 12 having "content" displayed thereon (see Fig. 2 and paragraph 0027) which "relat(es) to a promotion or advertisement of a product in the commercial establishment"; and "signaling device(s)" 25,80,94 coupled to the floor display system near the product (see Fig. 1 and paragraphs 0057, 0069 and 0075, regarding devices 25, 80 and 94, respectively), the "signaling device(s)" emitting a signal in response to a particular "display" of the content on the floor display (i.e., both the particular

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content display and the additional signaling device(s) may be triggered in response to detected motion of a person in the vicinity of the display, see the Abstract).

Regarding claims 37-39, in Rebh the "signaling device(s)" 25, 80 and 94 emit "sound", an "olfactory stimulus" and "light", respectively (i.e., the second display device 94 of Rebh is a visual display which inherently includes "light").

Regarding claim 40, as discussed above the person's "proximity" is detected, note sensor 14 (see paragraphs 0033-0034).

Regarding claim 41, as generally discussed in paragraph 0028 the floor display system of Rebh may be situated in a "grocery store aisle", which is inherently a "common area" of the commercial establishment.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-3, 6-10, 14, 16-20, 23, 24, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hector et al.

The Examiner takes Official Notice that a wide variety of proximity sensing devices (such as in claims 2-3, 6-10 and 17-18), means for protectively mounting such sensing devices (such as in claims 14 and 16), humanly-perceptible indications (such as in claims 19-20 and 30), physical components of displays (such as in claims 23 and 24), and communication links between components of an electronic system (such as in claim 34) were well known in the art at the time of the invention, and that one of ordinary skill would have recognized the applicability and advantages of using these features in the system of Hector et al according to personal preference.

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13. Claims 13 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

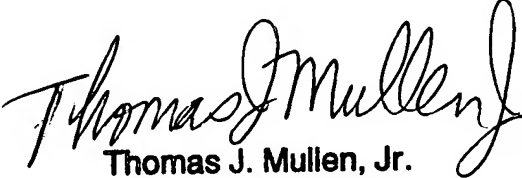
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining art cited by applicant has been considered.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

TJM


Thomas J. Mullen, Jr.
Primary Examiner
Art Unit 2632